

## 48A C.J.S. Judges § 23

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### II. Selection, Eligibility, and Qualification

#### A. Selection

##### 1. In General

## § 23. Generally

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### West's Key Number Digest

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**The power to select judges is derived from the people and can be exercised only by the authority to whom it is given.**

The power to select judges, like all other powers, is derived from the people.<sup>1</sup> Constitutional or statutory provisions transferring the direct selection of judges from the people must be plain and unambiguous.<sup>2</sup> It can be exercised only by the authority to whom it is so given<sup>3</sup> and cannot be delegated.<sup>4</sup> Any encroachment on the exercise of such power is void.<sup>5</sup>

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### Footnotes

1 Cal.—[Fay v. District Court of Appeal, Second Appellate Dist., Division Two, 200 Cal. 522, 254 P. 896 \(1927\)](#).

2 Cal.—[Fay v. District Court of Appeal, Second Appellate Dist., Division Two, 200 Cal. 522, 254 P. 896 \(1927\)](#).

3 N.J.—[Perry v. Bianchi, 96 N.J.L. 113, 114 A. 452 \(N.J. Sup. Ct. 1921\)](#).

**No statutory or inherent authority in judge to create judicial office or make indefinite appointments**  
Ga.—[Massey v. State, 265 Ga. 632, 458 S.E.2d 818 \(1995\)](#) (disapproved of on other grounds by, [Lewis v. McDougal, 276 Ga. 861, 583 S.E.2d 859 \(2003\)](#)).

4                   N.Y.—[People v. Dooley](#), 69 A.D. 512, 75 N.Y.S. 350 (2d Dep't 1902), aff'd, [171 N.Y. 74](#), 63 N.E. 815 (1902).

5                   S.D.—[State ex rel. McGee v. Gardner](#), 3 S.D. 553, 54 N.W. 606 (1893).

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